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85-00117



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DEC 10 1984

Judge Thomas A. Snowden, Jr.
Chairman, Shelby County Commission
P. O. Box 467
Columbiana, Alabama 35051

Counties - Roads, Highways and
Bridges - Employees, Employers,
Employment - Health Insurance -
Retirement

Shelby County Commission may
pay costs of health insurance
for employees who have already
retired if the expectation of
the payment of such costs was
understood as an incident of
their employment. County may
pay health insurance costs of
present and future employees
upon retirement.

Dear Judge Snowden:

Reference is made to the request by the Shelby County
Commission for an opinion from the Attorney General regarding
the following matter:

"Shelby County has, at the current time,
four employees of its Highway Department
who retired from Shelby County after
serving the Highway Department for a
period of time ranging from 20 to 36
years. These four employees are under
age 65 and, thus, not eligible for
Medicare. These retired employees are
allowed to stay under the group health
insurance which Shelby County has, but
they must currently pay their own
premiums until they become eligible for
Medicare, at which point the group policy
would be cancelled.

Judge Thomas A. Snowden, Jr.
Chairman, Shelby County Commission
Page Two

The County Commission has requested that I ask your opinion as to whether or not Shelby County may legally agree to assume a portion of the monthly costs for retired employees maintaining their coverage under the County health care plan, including these approximately four employees who have already previously retired."

By virtue of Code of Alabama 1975, Section 11-90-1 et seq. a county may provide health insurance coverage for its employees and may pay all or part of the cost of such insurance. The county has the authority under these provisions to determine the classes of employees which will participate in the insurance plan.

Section 68 of the Constitution of Alabama, 1901 prohibits an officer or employee of a county from receiving extra compensation after services have been rendered. Section 94 of the Constitution as amended prohibits a county from granting money or any other thing of value to a private individual, association or corporation. However, in an opinion of the Attorney General to the Honorable Charles Younger, City Attorney of the City of Huntsville dated September 30, 1982 as modified by an opinion dated October 19, 1982, it was concluded that funds may be appropriated for cost of living raises for retired employees as an incident of employment. These opinions stated that there would be no violation of Section 68 and Section 94 as amended if as a benefit of the employees' employment it was understood between the parties as an incident of employment there was to be the receipt of retirement increases from time to time after retirement.

Regarding those county employees who have already retired, it is a factual question as to whether it was understood as an incident of their employment that the costs of their health insurance would be paid by the county upon retirement. The Attorney General is not in the position to answer such factual questions. Therefore, a determination must be made on a case-by-case basis as to whether the expectation that the county would pay their health insurance costs after retirement was understood as an incident of employment for the retired employees.

As to the present and future employees of Shelby County, the county may pay their health insurance costs upon retirement.

Judge Thomas A. Snowden, Jr.
Chairman, Shelby County Commission
Page Three

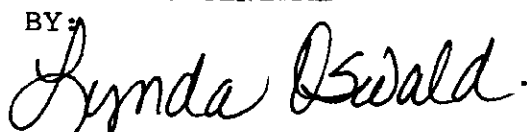
I hope that your question has been sufficiently answered.

If our office can be of assistance to you in the future, please let us know.

Sincerely,

CHARLES A. GRADDICK
ATTORNEY GENERAL

BY:

A handwritten signature in cursive script, reading "Lynda Knight Oswald".

LYNDA KNIGHT OSWALD
ASSISTANT ATTORNEY GENERAL

CAG:lo:w